

SENATE AMENDMENTS

2nd Printing

By: Wray

H.B. No. 1128

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the date and time for the public sale of real property.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. The heading to Section 34.041, Civil Practice
5 and Remedies Code, is amended to read as follows:

6 Sec. 34.041. SALE AT PLACE OTHER THAN COURTHOUSE DOOR; DATE
7 AND TIME OF SALE.

8 SECTION 2. Section 34.041, Civil Practice and Remedies
9 Code, is amended by adding Subsection (c) to read as follows:

10 (c) A sale of real property under this subchapter must take
11 place between 10 a.m. and 4 p.m. on the first Tuesday of a month or,
12 if the first Tuesday of a month occurs on January 1 or July 4,
13 between 10 a.m. and 4 p.m. on the first Wednesday of the month.
14 Notwithstanding Section 22.004, Government Code, the supreme court
15 may not amend or adopt rules in conflict with this subsection.

16 SECTION 3. Sections 51.002, Property Code, is amended by
17 amending Subsection (a) and adding Subsection (a-1) to read as
18 follows:

19 (a) Except as provided by Subsection (a-1), a [A] sale of
20 real property under a power of sale conferred by a deed of trust or
21 other contract lien must be a public sale at auction held between 10
22 a.m. and 4 p.m. of the first Tuesday of a month. Except as provided
23 by Subsection (h), the sale must take place at the county courthouse
24 in the county in which the land is located, or if the property is

1 located in more than one county, the sale may be made at the
2 courthouse in any county in which the property is located. The
3 commissioners court shall designate the area at the courthouse
4 where the sales are to take place and shall record the designation
5 in the real property records of the county. The sale must occur in
6 the designated area. If no area is designated by the commissioners
7 court, the notice of sale must designate the area where the sale
8 covered by that notice is to take place, and the sale must occur in
9 that area.

10 (a-1) If the first Tuesday of a month occurs on January 1 or
11 July 4, a public sale under Subsection (a) must be held between 10
12 a.m. and 4 p.m. on the first Wednesday of the month.

13 SECTION 4. Section 34.01, Tax Code, is amended by adding
14 Subsection (r-1) to read as follows:

15 (r-1) A sale of real property under this section, including
16 a sale conducted by means of a public auction using online bidding
17 and sale under Subsection (a-1), must take place between 10 a.m. and
18 4 p.m. on the first Tuesday of a month or, if the first Tuesday of a
19 month occurs on January 1 or July 4, between 10 a.m. and 4 p.m. on
20 the first Wednesday of the month.

21 SECTION 5. Section 34.07(f), Tax Code, is amended to read as
22 follows:

23 (f) A suit filed against the taxing units under Subsection
24 (d) may not be maintained unless the action is instituted before the
25 first anniversary of the date of sale or resale. In this subsection:

26 (1) "Date of sale" means the date [~~first Tuesday of the~~
27 ~~month~~] on which the sheriff or constable conducted the sale of the

1 property under Section 34.01.

2 (2) "Date of resale" means the date on which the
3 grantor's acknowledgment was taken or, in the case of multiple
4 grantors, the latest date of acknowledgment by the grantors as
5 shown in the deed.

6 SECTION 6. The changes in law made by this Act apply only to
7 the sale of real property under Subchapter C, Chapter 34, Civil
8 Practice and Remedies Code, Section 51.002, Property Code, or
9 Section 34.01, Tax Code, for which notice is given on or after the
10 effective date of this Act.

11 SECTION 7. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2017.

ADOPTED

MAY 15 2017

Katay Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Larry Taylor*

1 Amend H.B. No. 1128 (senate committee report) as follows:

2 (1) In SECTION 4 of the bill, in the recital (page 1, line
3 55), strike "Subsection (r-1)" and substitute "Subsections (r-1)
4 and (r-2)".

5 (2) In SECTION 4 of the bill, in added Section 34.01(r-1),
6 Tax Code (page 1, line 56), strike "including" and substitute
7 "other than".

8 (3) In SECTION 4 of the bill, in amended Section 34.01, Tax
9 Code (between page 1, line 61, and page 2, line 1), after added
10 Subsection (r-1), insert the following:

11 (r-2) A sale of real property conducted by means of a public
12 auction using online bidding and sale under Subsection (a-1) may
13 begin at any time and must conclude at 4 p.m. on the first Tuesday of
14 a month or, if the first Tuesday of a month occurs on January 1 or
15 July 4, at 4 p.m. on the first Wednesday of the month.

ADOPTED

V V
MAY 15 2017

Henry S. Paul
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: *Henry Taylor*

1 Amend H.B. No. 1128 (senate committee report) by striking
2 SECTION 7 of the bill (page 2, lines 18-22) and substituting the
3 following:

4 SECTION 7. This Act takes effect September 1, 2017.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 16, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1128 by Wray (Relating to the date and time for the public sale of real property.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend various sections of the Civil Practice and Remedies Code, the Property Code, and the Tax Code requiring the public sale of real property to be the first Tuesday of the month. If the first Tuesday is on January 1st or July 4th the public sale of real property must be held on the first Wednesday of the month between 10 a.m. and 4 p.m. The bill also specifies begin times and ending times for the sale of real property conducted by means of a public auction using online bidding.

The bill would take effect September 1, 2017.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, BM, CL, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 24, 2017

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1128 by Wray (Relating to the date and time for the public sale of real property.), As
Engrossed

No fiscal implication to the State is anticipated.

The bill would amend various sections of the Civil Practice and Remedies Code, the Property Code, and the Tax Code requiring the public sale of real property to be the first Tuesday of the month. If the first Tuesday is on January 1st or July 4th the public sale of real property must be held on the first Wednesday of the month between 10 a.m. and 4 p.m. This applies to sales using online bidding.

The bill would take effect September 1, 2017.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, BM, CL, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 24, 2017

TO: Honorable René Oliveira, Chair, House Committee on Business & Industry

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1128 by Wray (Relating to the date and time for the public sale of real property.),
Committee Report 1st House, Substituted

No fiscal implication to the State is anticipated.

The bill would amend various sections of the Civil Practice and Remedies Code, the Property Code, and the Tax Code requiring the public sale of real property to be the first Tuesday of the month. If the first Tuesday is on January 1st or July 4th the public sale of real property must be held on the first Wednesday of the month between 10 a.m. and 4 p.m. This applies to sales using online bidding.

The bill would take effect September 1, 2017.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, BM, CL, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 9, 2017

TO: Honorable René Oliveira, Chair, House Committee on Business & Industry

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1128 by Wray (Relating to alternative dates for sale of property under contract lien.),
As Introduced

No fiscal implication to the State is anticipated.

The bill would amend Section 51 of the Property Code requiring if the first Tuesday of the month occurs on January 1st or July 4th the public sale of property under contract lien must be held on the first Wednesday of the month between 10 a.m. and 4 p.m.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, CL, GG, BM